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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/589,699 | 05/10/2007 | Pierluigi Breda | SAIC 22.720(100788-00121) | 8805 |
| 26304 | 7590 | 11/28/2008 | EXAMINER | |
| KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585 | | | DANG, HUNG XUAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2873 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 11/28/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/589,699 | Applicant(s) BREDA ET AL. | |
| | Examiner HUNG X. DANG | Art Unit 2873 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16, 18-21 and 23 is/are allowed.
- 6) ☒ Claim(s) 17 and 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/16/06; 5/10/07</u> . | 6) <input type="checkbox"/> Other: ____. |

Information Disclosure Statement

1. The prior art documents submitted by applicant in the Information disclosure Statements filed on 8/16/06 and 5/10/07 have been considered and made of record (noted attached copy of form PTO-1449).

It is noted that the foreign patent has been considered to the best of the ability of the examiner without benefit of translation.

Drawings Objection

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the each of said earpieces has a front surface with an internal convex profile and rear surface with a concave internal profile, counter-shaped to said front surface so that said earpieces, if longitudinally overlapped, reciprocally match to create a housing for the frontal piece as recited in **claim 17** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on **a separate sheet** within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claims Rejection Under 35 U.S.C. 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 17 recited " each of said earpieces has a front surface with an internal convex profile and rear surface with a concave internal profile, counter-shaped to said front surface so that said earpieces, **if** longitudinally overlapped, reciprocally match to create a housing for the frontal piece" which renders the claims unclear as to whether or not certain limitations following such indefinite language.

In claim 22 recited "a removable elastic nose piece, is connected to said frontal piece, in its central area, and has a thickness greater than the frontal piece, the width of said earpieces being wider than the thickness of said frontal piece and slightly thinner, at least in their central area, than the thickness of the nose piece." vague and indefinite How can the earpiece housing the frontal piece if the width of the earpiece is thinner than the central area of the nose piece?

Allowable Subject Matter

4. Claims 1-16, 18-21 and 23 are allowed.

Reasons For Allowance

5. The following is an Examiner's Statement of Reasons for Allowance:

The prior art fails to teach a combination of all the claimed features as present in independent claim 1, which include the first and second hinges being adapted to let the corresponding earpiece rotate with respect to the frontal piece so as to move from a first position, where the earpieces are orthogonal to the frontal piece, to a second position where the earpieces are about parallel to the frontal piece and are positioned on the upper and lower side thereof, wherein the earpieces are semi-shell shaped such that in the second position they can form a shell to temporarily hold said frontal piece.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG X. DANG whose telephone number is (571)272-2326. The examiner can normally be reached on Monday to Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack, can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Hung X Dang/

Primary Examiner, Art Unit 2873